

### **REMARKS/ARGUMENTS**

Applicants respectfully request reconsideration of the rejection of claims 1-4, 7-31, and 34-57 under 35 U.S.C. 102(e) as anticipated by U.S. Patent No. 6,195,680 (Goldszmidt et al.) and consideration of new claims 58-63.

The Goldszmidt et al. patent is directed to a client-based dynamic switching of streaming servers for fault-tolerance and load balancing. The system includes multimedia servers which are grouped into two or more sets. A client requests a multimedia stream through a control server which routes requests to the multimedia servers and the client receives the stream directly from a selected server. If the client detects a load imbalance or failure, it switches to a secondary server and continues to receive the multimedia stream. The determination of when to switch to the backup server can be based on received bit or frame rate or sample rate, for example.

Goldszmidt et al. do not disclose: (a) generating a list of measurement targets, associated configuration parameters, and schedule based on data received for each of the measurement targets; (b) receiving the list of measurement targets, associated configuration parameters, and schedule; or (c) sending performance measurements to a data collection server configured for collecting and storing data received from a plurality of data acquisition agents, as set forth in claim 1. Claim 1 has been amended to further clarify that the list of measurement targets, associated configuration parameters, and schedule is received at the data acquisition agent and that the request for streaming media is based on the received list of measurement targets and schedule.

In rejecting claim 1, the Examiner cites steps of a flowchart shown in Figs. 4 and 5 and described at col. 9, line 48 - col. 10, line 48 of the Goldszmidt et al. patent. With respect to generating a list of measurement targets, associated configuration

parameters, and schedule, the Examiner refers to step 4.1 of Fig. 4. In this step, the client simply sends a request message to the server for the multimedia stream. There is no list of measurement targets, configuration parameters or schedule. With respect to receiving the list of measurement targets, the Examiner refers to step 4.2 of Fig. 4. In this step, the control server identifies a set of streaming servers that the client can connect to. Again, there is no list of measurement targets, associated configuration parameters or schedule. As to sending performance measurements to a data collection server configured for collecting and storing data received from a plurality of data acquisition agents, the Examiner refers to steps 5.1-5.3 of the flowchart of Fig. 5 in Goldszmidt et al. These steps describe how a client requests the control server to switch to an alternate server when the client detects that the streaming server fails. Upon sensing a failure in the multimedia, the client requests to switch to an alternate source. The client does not collect or send performance measurements to another server. The client simply monitors the transmission so that it can detect a failure in the data stream. Moreover, there is no data collection server configured for collecting and storing data received from data acquisition agents.

Furthermore, there are no media sources identified as a measurement target in Goldszmidt et al. Goldszmidt et al. simply monitor streaming data to identify a failure. None of the servers are identified as measurement targets; instead they are used to provide multimedia with no tracking of performance configuration parameters of the streaming media.

Applicants' invention, as set forth in the claims, is particularly advantageous in that it provides a method and system for simulating a session in which streaming media is broadcast over the network and performance is monitored to identify problem areas and compare performance with other streaming media sites.

Accordingly, claim 1 is submitted as patentable over Goldszmidt et al. and the other prior art of record.

Claims 2-4, 7-27, and 54-57, depending either directly or indirectly from claim 1, are submitted as patentable for at least the same reasons as claim 1.

Claims 7 and 8 are further submitted as not anticipated by Goldszmidt et al., because they do not disclose collecting initial connection and redirection times, and collecting number of redirects, as set forth in claims 7 and 8, respectively. In rejecting these claims, the Examiner refers to steps 5.3-5.7 of Fig. 5. These steps address how the client requests the control server to switch the client to an alternate server, following failure detection. There is no disclosure of collecting connection and redirection times or number of redirects.

With respect to claim 19, Goldszmidt et al. do not disclose displaying performance measurements on a Web site. As previously discussed, there is no collection or sending of performance measurements and thus no data to display on a Web site.

Claim 21 is further submitted as patentable over the prior art of record which does not show or suggest a stream quality rating based on a startup score, audio score, and video score, wherein the stream quality rating is a value calculated based on a percentage of the startup score, audio score and video score. The stream quality rating allows for an overall performance rating which includes various percentages of different factors, which can be easily adjusted based on different user priorities.

Claim 28 is directed to a computer program product and claim 30 is directed to a system for measuring streaming media over a network. Claims 28 and 30 are submitted as patentable for at least the reasons discussed above with respect to claim 1.

Claim 29 depending from claim 28, and claims 31-53, depending either directly or indirectly from claim 30, are submitted as patentable for the same reasons as claims 28 and 30.

For the foregoing reasons, Applicants believe that all of the pending claims are in condition for allowance and should be passed to issue. If the Examiner feels that a telephone conference would in any way expedite the prosecution of the application, please do not hesitate to call the undersigned at (408) 399-5608.

Respectfully submitted,



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